

DATE

Mr. Brad Cradeur
Executive Director
Sewerage District No. 1, Iberia Parish
2617 Northside Rd., Suite 100
New Iberia, LA 70563

Re: Docket No. 2022-029
Advisory Opinion

Dear Mr. Cradeur:

The Louisiana Board of Ethics, at its March 4, 2022 meeting, considered your request for an advisory opinion as to whether a trailer park owned by the chairperson of the board of the Sewerage District No. 1 of Iberia Parish may dedicate a sewerage treatment plant to the district, and whether the chairperson could participate in such transaction in his capacity as a board member.

FACTS PROVIDED

Sewerage District No. 1 of Iberia Parish (the "District") is a political subdivision created by ordinance of Iberia Parish Council (the "Council") pursuant to La. R.S. 33:3881 *et seq.* The District is governed by a five-member Board of Supervisors (the "District Board"). Members of the District Board are appointed by the Council. The purpose of the District is to establish, acquire, construct, maintain and operate a sewerage system, which may include facilities, equipment and installations as necessary.

The District's policies may require connection to the public sewer system if property is within 300 feet of a serviceable public sewer. The District has historically accepted dedications and assumed responsibility for approximately 10 trailer park, stand-alone wastewater facilities that are not connected or within 300 feet of a public sewer. The operation and ownership of these systems by the District is not mandated by law or policy.

The chairperson of the District's Board is a 50% owner of a trailer park (the "Park"); the other 50% is owned by his father. The Park has a self-contained sewerage treatment plant to treat the sewage of the Park. The chairperson and his father would like to transfer and dedicate the sewer system and plant to the District for operation, maintenance and collection of user fees.

You wish to know if the chairperson of the District Board may participate and vote, in his capacity as a member of the District Board, on this transaction. You also wish to know if the Park may enter into an agreement to accomplish this transaction.

LAW

La. R.S. 42:1102(8) defines “controlling interest” to mean any ownership in any legal entity or beneficial interest in a trust, held by or on behalf of an individual or a member of his immediate family, either individually or collectively, which exceeds twenty-five percent of that legal entity.

La. R.S. 42:1102(21) defines “substantial economic interest” as an economic interest which is of greater benefit to the public servant or other person than to a general class or group of persons, except: (a) the interest that the public servant has in his position, office, rank, salary, per diem, or other matter arising solely from his public employment or office; (b) the interest that an elected official who is elected to a house, body, or authority has in a position or office of such house, body, or authority which is required to be filled by a member of such house, body, or authority by law, legislative rule, or home rule charter, (c) the interest that a person has as a member of the general public.

La. R.S. 42:1112B(2) states that no public servant shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any person in which he has a substantial economic interest of which he may be reasonably expected to know has a substantial economic interest.

La. R.S. 42:1113A(1)(a) states no public servant, or a member of such a public servant’s immediate family, or a legal entity in which he has a controlling interest shall bid on or enter into any contract, subcontract or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

La. R.S. 42:1120.4 provides an exception for appointed members of a board or commission to recuse themselves from voting on matters that violate section 1112 of the Code. The appointed members may not discuss and debate the matter.

La. R.S. 42:1123(30) provides that a public servant, a legal entity in which he has a controlling interest, or a member of his immediate family may donate services, movable property, or funds to his agency.

ANALYSIS

With respect to the chairperson’s ability to vote and debate on this transaction, such activities would be prohibited under La. R.S. 42:1112B(2). As a 50% owner of the Park, the chairperson is deemed to have a substantial economic interest. As the Park has a substantial economic interest in the transaction, the chairperson would be prohibited from participating in this transaction. The chairperson would be able, as an appointed member of a board, to recuse himself from voting on or discussing the matter, pursuant to La. R.S. 42:1120.4.

With respect to the transaction as a whole, such transaction would be prohibited under La. R.S. 42:1113A. As an owner of 50% of the Park, the chairperson is deemed to have controlling interest in the Park, pursuant to La. R.S. 42:1102(8). Accordingly, pursuant to La. R.S. 42:1113A, the Park may not enter into a transaction that is under the supervision or jurisdiction of the District. As the

property in the contemplated transaction would be considered immovable property, the exception contained in La. R.S. 42:1123(30) would not apply.

CONCLUSION

The Board of Ethics concluded, and instructed me to inform you, that the Code of Governmental Ethics would prohibit the Park from dedicating a sewerage treatment plant to the District while Mr.?? serves on the District Board. Further, the Code of Governmental Ethics would prohibit the chairperson of the District Board from participating in the debate, discussion and vote on such contemplated transaction.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Governmental Ethics. The Board issues no opinion as to past conduct and or to laws other than the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Acts, and the conflict of interest provisions contained in the Louisiana Gaming Control Law.

If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

Charles E. Reeves, Jr.
For the Board

DISCLAIMER
This is a draft opinion and it is **NOT** an opinion of the Louisiana Board of Ethics. The analysis and conclusions herein are provided for discussion purposes only, and are subject to change or revision at the meeting of the Board of Ethics at which this matter is considered.